

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1330**

In the Matter of: Hayat Muse.

**Filed February 22, 2021
Reversed
Segal, Chief Judge**

Department of Employment and Economic Development
File No. 39175517-6

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Considered and decided by Segal, Chief Judge; Hooten, Judge; and Smith, Tracy M., Judge.

SYLLABUS

Minnesota high school students are not categorically ineligible to receive Pandemic Unemployment Assistance under the federal Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136, 134 Stat. 281 (2020) (CARES Act).

OPINION

SEGAL, Chief Judge

In this certiorari appeal, relator Hayat Muse challenges a determination by an unemployment-law judge (ULJ) that relator is ineligible for Pandemic Unemployment

Assistance (PUA) under the CARES Act because she is a high school student. PUA is one of the federal financial assistance programs enacted to provide added unemployment benefits to help mitigate the financial hardships caused by the COVID-19 pandemic. The ULJ in this case denied PUA benefits to relator because, under the state unemployment statute, high school students are not eligible for regular unemployment benefits. Minn. Stat. § 268.085, subd. 2(3) (2020). Relator contends that this decision is in conflict with the unambiguous terms of the CARES Act. We agree and, accordingly, reverse the decision of the ULJ.

FACTS

Relator Hayat Muse is a high school student who was separated from her part-time employment at a coffee shop because of the COVID-19 pandemic. Muse applied for unemployment benefits through respondent Minnesota Department of Employment and Economic Development (DEED) in March 2020, identifying herself as a high school student in her application. Muse received PUA benefits for only five weeks.

In May 2020, DEED issued an initial determination of ineligibility stating that Muse was not eligible for PUA benefits because she is a high school student. Muse filed an administrative appeal. Following an evidentiary hearing, a ULJ issued a decision determining Muse ineligible for PUA benefits because of the ineligibility of high school students for regular unemployment-compensation benefits under state law. As a consequence, Muse received no additional payments and was ordered to pay back the \$1,170 she had received in PUA benefits. A second ULJ affirmed the decision after Muse sought reconsideration.

Muse filed this certiorari appeal and a motion, jointly filed with DEED, to expedite the court's consideration of the appeal. In the joint motion, DEED represented that it will apply this court's decision, both retrospectively and prospectively, with regard to the eligibility of Minnesota high school students for PUA benefits.¹ We granted the joint motion and a subsequent motion by the Minnesota Attorney General to file an amicus brief in support of Muse's position. Following expedited briefing and oral argument, we issued a December 1, 2020 order reversing the ULJ's decision, with an opinion to follow. This opinion sets forth our analysis in support of that order.

ISSUE

Are Minnesota high school students categorically ineligible for PUA benefits?

ANALYSIS

This appeal is limited to the narrow but impactful issue of whether Minnesota high school students are disqualified from receiving PUA benefits because high school students are not eligible for regular unemployment benefits under state law. We apply a de novo standard of review to administrative agencies' interpretations of federal statutes such as the CARES Act. *In re Gillette Children's Specialty Healthcare*, 883 N.W.2d 778, 784 (Minn. 2016).

¹ DEED's agreement stemmed from a settlement agreement in federal litigation. Relator was a plaintiff in a now-dismissed federal lawsuit challenging DEED's denial of PUA benefits to high school students. *See Youthprise v. Minn. Dep't of Emp't & Econ. Dev.*, No. 20-CV-02087 (D. Minn.). The federal lawsuit was dismissed in October 2020 pursuant to a stipulation that included DEED's agreement to seek expedited consideration of this appeal and to apply this court's decision retrospectively and prospectively.

The CARES Act, signed into law on March 27, 2020, “creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits, and provides funding to states for the administration of the program.” U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20 (April 5, 2020) (UIPL 16-20), at 1. Under the Act, the Secretary of Labor “shall provide to any covered individual unemployment benefit assistance while such individual is unemployed, partially employed, or unable to work for the weeks of such unemployment with respect to which the individual is not entitled to any other employment compensation . . . or waiting period credit.” CARES Act § 2102(b).

A “covered individual” eligible to collect PUA benefits is an individual who (1) “is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation,”² and (2) self-certifies that she is “otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because” of one of 11 reasons related to the COVID-19 pandemic.³ CARES Act § 2102(a)(3)(A). The PUA program extended economic assistance to people who lost work due to the pandemic but would not be eligible for regular unemployment-

² Pandemic emergency unemployment compensation (PEUC) is available to individuals who have received all regular unemployment benefits available to them for a particular benefit year. *See generally* CARES Act § 2107. Because Minnesota high school students are not eligible for regular unemployment benefits, they cannot exhaust them and qualify for PEUC.

³ The definition of “covered individual” contains several additional inclusions and exclusions, none of which are relevant here. *See* CARES Act § 2102(a)(3)(A)(ii)(II), (a)(3)(B).

compensation benefits, such as “gig economy” workers who are ineligible for regular unemployment benefits because they are classified as independent contractors and not employees. UIPL 16-20 Attachment 1, at I-6; UIPL 16-20 Change 1 (April 27, 2020), at I-8. As the U.S. Department of Labor (USDOL) has explained, “PUA is a benefit of last resort for anyone who does not qualify for other [unemployment-compensation] programs and who would be able and available to work but for one or more of the COVID-19 related reasons listed in section 2102 of the CARES Act.” UIPL 16-20 Change 1, at I-8.

The USDOL issued guidance on how to administer the PUA program in UIPL 16-20 and four subsequent UIPLs referred to as Changes 1 - 4 to UIPL 16-20. Relevant to this appeal, Change 1 to UIPL 16-20 provided an answer to the question of whether a full-time student who is laid off from part-time employment due to the pandemic (and the part-time income is not her primary source of income) can be eligible for PUA benefits:

Answer: Yes. Provided a full-time student who worked part-time is unemployed, partially unemployed, or unable or unavailable to work because of one of the COVID-19 related reasons in section 2102(a)(3)(A)(ii)(I) of the CARES Act, then he or she may be eligible for PUA.

The requirement that the employment be the “principal source of income” . . . does not apply to eligibility for PUA.

UIPL 16-20 Change 1, at I-7 (Question 28). The guidance also makes clear that there is not a minimum age to be eligible to receive PUA benefits. UIPL 16-20 Change 2 (July 21, 2020), at I-3 - I-4 (Question 6). The USDOL noted that federal or state laws relating to the employment of minors could impact eligibility, but concluded that “[i]f federal and state

laws . . . do not make it illegal to employ the individual, and the individual meets the state’s able and available requirements, the individual may be eligible for PUA.”⁴ *Id.*

The USDOL guidance further provides that, in the event of questions concerning coverage or administration of the federal benefits that are not answered in the CARES Act or corresponding UIPLs, states should consult the regulations governing Disaster Unemployment Assistance (DUA), 20 C.F.R. Part 625. UIPL 16-20 Change 1, at 2. DUA is a preexisting, ongoing federal program that provides unemployment assistance to eligible persons impacted by a major disaster. 42 U.S.C. § 5177; 20 C.F.R. § 625.1(a). Congress provided that the regulations governing DUA apply to the PUA program “[e]xcept as otherwise provided in [section 2102 of the CARES Act] or to the extent there is a conflict between [section 2102] and [part] 625.” CARES Act § 2102(h). Finally, only after applying the provisions of the CARES Act, the UIPLs and the DUA regulations (to the extent not inconsistent with the Act or the UIPLs) are states to look at their own unemployment laws in interpreting eligibility for PUA benefits. UIPL 16-20 Change 1, at 2.

With this as background, we turn to the question of whether the ULJ correctly interpreted the CARES Act in disqualifying Muse from receiving PUA benefits. When interpreting a federal statute, this court must “give effect to the will of Congress.” *Goodman v. Best Buy, Inc.*, 777 N.W.2d 755, 758 (Minn. 2010) (quoting *Griffin v. Oceanic*

⁴ In connection with this guidance, we note that DEED submitted a question to the USDOL regarding the high-school eligibility issue, but did not receive a direct response and the USDOL did not select that specific question for inclusion in the UIPLs.

Contractors, Inc., 458 U.S. 564, 570, 102 S. Ct. 3245, 3250 (1982)). If the language of the statute is clear, we will not look beyond it. *Id.* “We must ‘presume that [the] legislature says in a statute what it means and means in a statute what it says there.’” *Id.* (quoting *Conn. Nat’l Bank v. Germain*, 503 U.S. 249, 253-54, 112 S. Ct. 1146, 1149 (1992)).

The CARES Act sets out two requirements for PUA eligibility: (1) an individual must be ineligible for regular unemployment benefits or PEUC benefits and (2) an individual must self-certify that they are available to work but unable to do so because of one of 11 reasons related to the COVID-19 pandemic. CARES Act § 2102(a)(3)(A). There is no dispute that Minnesota high school students meet the first requirement because, under the Minnesota Unemployment Insurance Law, high school students are categorically ineligible to collect unemployment benefits. Minn. Stat. § 268.085, subd. 2(3) (providing that an applicant is ineligible for benefits during any week “that occurs in a period when the applicant is a student in attendance at, or on vacation from a secondary school including the period between academic years or terms”). The second requirement can also be met by high school students. All it requires is that the student be available for work, but not be able to work because of one of the listed COVID-19-related reasons. DEED does not dispute that Muse is ineligible for benefits under state law and lost her part-time employment because of the pandemic. Muse thus satisfies the two prerequisites and is thereby eligible for PUA benefits under the plain language of the CARES Act.

DEED, however, urges this court to defer to its interpretation of the CARES Act as the “only reasonable position that accounts for all of the relevant authorities.” Deference, however, is only appropriate if the provision being interpreted is ambiguous. *In re Cities*

of Annandale & Maple Lake NPDES/SDS Permit Issuance, 731 N.W.2d 502, 516 (Minn. 2007); *see also Abdi v. Dep't of Emp't & Econ. Dev.*, 749 N.W.2d 812, 815 (Minn. App. 2008) (“[I]f we conclude that the Act and regulations are clear and unambiguous with respect to the issue before us, DEED’s interpretation is entitled to no deference.”). For a provision to be ambiguous, the provision must be capable of two or more reasonable interpretations. *Cities of Annandale*, 731 N.W.2d at 516. For the reasons set out below, we conclude that DEED’s proposed interpretation is not reasonable and is, therefore, not entitled to deference.

DEED’s interpretation is based on language in an attachment to the USDOL guidance that relates to the processing of PUA claims. UIPL 16-20 Attachment 1, at I-9. The language relied on by DEED states that “[t]he provisions of the applicable state law that apply to claims for PUA include . . . [d]isqualification, including disqualifying income provisions.” *Id.* DEED argues that “disqualification” is equivalent to “ineligibility,” and that, because high school students are ineligible for regular unemployment benefits under Minnesota law, they are also ineligible for PUA benefits. DEED’s reasoning is flawed for several reasons.

First, DEED’s argument ignores the beginning of the above-quoted section, which provides that state law applies “consistent with 20 C.F.R. 625.11” of the DUA regulations. *Id.* Section 625.11 of the DUA regulations expressly limits the applicability of state law to only those provisions “as specifically set forth” in that part of the regulations. 20 C.F.R. § 625.11. The section of the DUA regulations that relates to disqualification provides, in relevant part:

(b) *Disqualification.*

(1) An individual shall not be entitled to DUA for any week after the week in which the individual is reemployed in a suitable position.

(2) An individual who refuses without good cause to accept a bona fide offer of reemployment in a position suitable to the individual . . . shall not be entitled to DUA [benefits] For the purposes of this paragraph, a position shall not be deemed to be suitable for an individual if . . . acceptance for the position would . . . be inconsistent with any labor standard . . . of the Federal Unemployment Tax Act, . . . *or the comparable provisions of the applicable State law.*

20 C.F.R. § 625.13(b) (emphasis added). There is nothing in these subsections that would allow disqualification on the basis of the high school restriction in our state law. To the contrary, the regulations appear to narrowly restrict the applicability of state law provisions to questions relating to whether the benefit applicant has turned down a “suitable position” without “good cause.” We thus conclude that DEED erred by relying on this one item in the guidance, without reading it together with the DUA regulations as the guidance requires.

Moreover, the interpretation urged by DEED is inconsistent with the language and purpose of the CARES Act and is illogical. Eligibility for PUA benefits requires a showing that the person is not eligible for regular unemployment-compensation benefits. If the very thing that makes the person eligible for PUA benefits is treated as a disqualification, no one would be eligible for PUA benefits.⁵

⁵ We note that DEED does not assert that all individuals who are ineligible for regular unemployment compensation are ineligible for PUA benefits. Rather, DEED argues that “[t]here is a legal distinction between individuals who are not eligible for regular

DEED’s interpretation also ignores the USDOL guidance related to students. That guidance expressly states that full-time students may be eligible for PUA benefits, even though their work was only part-time and was not a “primary source of income.” UIPL 16-20 Change 1, at I-7. The guidance further provides that there is not a minimum age requirement for PUA eligibility. UIPL 16-20 Change 2, at I-3. This undermines DEED’s contention that our state law disqualification of high school students from regular unemployment-compensation benefits should be applied to determine PUA eligibility.

Another factor that weighs against DEED’s interpretation is the fact that the CARES Act offers “coverage for individuals who are not eligible for regular [unemployment compensation],” including “certain gig economy workers, clergy and those working for religious organizations who are not covered by regular [unemployment compensation], and *other workers who may not be covered by the regular [unemployment-compensation] program under some state laws.*” UIPL 16-20, at 1-2 (emphasis added); *see also* UIPL 16-20 Change 1, at I-8 (“PUA is a benefit of last resort for *anyone* who does not qualify for other [unemployment-compensation] programs and who would be able and available to work but for one or more of the COVID-19 related reasons listed in section 2102 of the CARES Act.” (emphasis added)). Our state unemployment law bars “gig economy workers” from eligibility for regular unemployment benefits because they are classified as

unemployment insurance benefits due to reasons that prevent them from establishing an unemployment benefit account, and those who are ineligible due to application of state law disqualification/ineligibility provisions.” Here again, however, we can discern no language in the CARES Act or the USDOL guidance to support such a distinction and it ignores section 625.11 of the DUA regulations that limits the applicability of state law provisions.

independent contractors pursuant to Minn. Stat. § 268.035, subd. 15(a)(1) (2020), but the guidance makes clear that they are not categorically disqualified from eligibility for PUA benefits. *See* UIPL 16-20 Attachment 1, at I-6; UIPL 16-20 Change 1, at I-8.

DEED’s final argument in support of its interpretation of the CARES Act is that, if high school students are deemed eligible to obtain PUA benefits, it will throw open the doors of eligibility so wide that even incarcerated individuals and individuals not actually unemployed may be eligible for benefits. This is not accurate. As we have explained, applicants for PUA benefits must demonstrate, among other things, that they are “otherwise . . . available for work.” CARES Act § 2102(a)(3)(A). Incarcerated individuals cannot be eligible for PUA benefits because they are not “otherwise able to work and available for work within the meaning of applicable State law.” *Id.* (a)(3)(A)(i).⁶ And individuals who are not actually unemployed cannot be eligible for PUA benefits because the definition of “covered individual” is limited to those who self-certify that they are “unemployed, partially unemployed, or unable or unavailable to work because” of one of the enumerated COVID-19-related reasons. *Id.* (a)(3)(A)(ii)(I).

We therefore reject DEED’s contention that its interpretation is reasonable and discern no ambiguity in the applicable provisions of the CARES Act. Under the plain language of the Act, we conclude that our state law barring high school students from

⁶ The USDOL guidance confirms this in answering a question about the eligibility of “an incarcerated individual who is no longer participating in the work release program because the jail closed this program due to COVID-19.” UIPL 16-20 Change 2, at I-4 (Question 9). The USDOL explains that “the incarcerated individual is not ‘otherwise able to work and available for work within the meaning of applicable State law’ because of his or her incarcerated status.” *Id.*

receiving regular unemployment-compensation benefits does not render high school students categorically ineligible for PUA benefits.

DECISION

The ULJ erred by concluding that Minn. Stat. § 268.085, subd. 2(3), applies to render Minnesota high school students ineligible for PUA benefits under the CARES Act. For this reason, and because DEED does not dispute that Muse has met the second requirement for PUA eligibility, we reverse the decision of the ULJ.

Reversed.